

AMENDED IN ASSEMBLY JUNE 14, 2004

AMENDED IN ASSEMBLY JUNE 23, 2003

AMENDED IN SENATE JUNE 3, 2003

AMENDED IN SENATE APRIL 3, 2003

SENATE BILL

No. 792

Introduced by Senator Sher

February 21, 2003

~~An act to amend Section 410.30 of the Code of Civil Procedure, relating to jurisdiction. An act relating to state property.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 792, as amended, Sher. ~~Jurisdiction: foreign forums~~ *State parks: Martini Creek Bypass.*

Existing law gives the Department of Transportation full possession and control of state highways and associated property. Existing law gives the Department of Parks and Recreation control of the state park system.

This bill would require the Department of Transportation to sell and transfer certain property under its control in the County of San Mateo as surplus state property to the Department of Parks and Recreation for state park purposes.

~~Existing law requires the court to stay or dismiss any action in whole or in part upon a finding in the interest of substantial justice that the action should be heard outside the state, except as specified.~~

~~This bill would require a petitioner in regard to this interest in specified actions to present evidence of the availability and adequacy~~

~~of the alternative foreign forum. The bill would also specify the intent of the Legislature in this regard.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1. — Section 410.30 of the Code of Civil Procedure~~

SECTION 1. (a) *The Legislature finds and declares all of the following:*

(1) *The existing Martini Creek Devil's Slide bypass right-of-way for the realignment of Route 1, from the northern boundary of the town of Montara to past the alignment summit over Montara Mountain, bisects the McNee Ranch Acquisition area of Montara State Beach, is an environmentally sensitive Coastal Mountain Habitat area of undeveloped land within a scenic corridor viewed from the coast and Route 1, and is popular for a variety of recreational pursuits, including hiking and biking.*

(2) *An overwhelming majority of San Mateo County voters passed Measure T in 1996, proclaiming that the construction of a surface bypass in this area would seriously damage the watersheds, wildlife habitats, and parks of Montara and San Pedro Mountains, and directing the amendment of their Local Coastal Program to provide for a tunnel alternative to such a bypass.*

(3) *With the Department of Transportation's determination that a freeway bypass over Montara Mountain is not currently viable, the property located in the existing Martini Creek Devil's Slide bypass right-of-way for the realignment of Route 1 from the northern boundary of the town of Montara (State Parcel Number 39874) to past the alignment summit over Montara Mountain (State Parcel Numbers 39873 and a large portion of 39872), hereinafter "the Martini Creek Bypass Alignment," is surplus state property located within the coastal zone, as defined in Section 30103 of the Public Resources Code, as that zone was described on January 1, 1977, and subject to Section 9 of Article XIX of the California Constitution. It is, therefore, fitting and proper, and in furtherance of the public interest, that the Department of Transportation sell its ownership interest in the Martini Creek Bypass Alignment for the purpose of adding to the McNee Ranch Acquisition area of Montara State Beach.*

(b) *It is the intent of the Legislature that:*

(1) *The sale of the property in the Martini Creek Bypass Alignment by the Department of Transportation for conversion to state park purposes will not adversely impact any mitigation credits that may be additionally factored into the sale price and that the Department of Transportation may be entitled to by making this property transfer.*

(2) *The Department of Parks and Recreation shall include this area in the management of the McNee Ranch Acquisition area of Montara State Beach for park purposes that are consistent with the San Mateo County Local Coastal Program.*

(c) *The Department of Transportation shall declare that the Martini Creek Bypass Alignment right-of-way is surplus state property and provide for the sale and transfer of this property to the Department of Parks and Recreation for state park purposes as provided under Section 9 of Article XIX of the California Constitution.*

~~is amended to read:~~

~~410.30. (a) If a court upon motion of a party or its own motion finds that in the interest of substantial justice an action should be heard in a forum outside this state, the court shall stay or dismiss the action in whole or in part on any condition that may be just.~~

~~(b) In determining the interest of substantial justice in any action by a natural person for damages for death or personal injury in a foreign country, the petitioner shall present evidence of the availability and adequacy of the foreign forum, which shall include, but not be limited to, any relevant pronouncement of a foreign country's executive, legislative, or judicial branch, and any relevant findings or reports of international organizations, such as the United Nations Commission on Human Rights or the Organization of American States Juridical Committee.~~

~~(c) Nothing in this section may be construed as inconsistent with decisions of the California courts in effect on January 1, 2004.~~

~~(d) The provisions of Section 418.10 do not apply to a motion to stay or dismiss the action by a defendant who has made a general appearance.~~

~~SEC. 2. It is the intent of the Legislature in enacting Section 1 of this act to ensure that a petitioner provides the court with all relevant information at the earliest time possible in order to~~

1 ~~expedite the decisionmaking process, to conserve court time and~~
2 ~~judicial resources. However, it is not the intent of the Legislature~~
3 ~~to create a new standard regarding the stay or dismissal of any~~
4 ~~action in whole or in part.~~

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